

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**JEROME BROWN,**

**Plaintiff,**

**v.**

**WARDEN, HIGH DESERT  
STATE PRISON, et al.,**

**Defendant.**

CV-S-05-1122-JCM (PAL)

**ORDER**

Presently before the court are the report and recommendations (#19) of United States Magistrate Judge George Foley recommending the plaintiff's motion to issue indictments to the defendants (#15) and plaintiff's defaulted motion against defendants (#17) be dismissed without prejudice. Local Rule IB 3-1 states that any party wishing to object to the ruling of the magistrate judge on a pretrial matter shall file a specific objection within ten (10) days from the date of service of the magistrate judge's ruling. No objections were filed.

On November 1, 2005, plaintiff filed a civil rights complaint and then an amended complaint on November 30, 2005. On March 1, 2006, this court issued an order permitting plaintiff's complaint to continue only on the claim of excessive force against corrections officers at High Desert State Prison. Because the officers were not served with summons and complaint, this court asked the office of the attorney general whether it could accept service of process on behalf of the officers.

1 On March 21, 2006, the office of the attorney general answered that it could not, as it was unclear  
2 from the complaint which officers were the proper defendants. Plaintiff did not serve the defendants,  
3 instead filing a motion to issue indictments to the defendants on July 14, 2006, and a defaulted  
4 motion against the defendants on August 14, 2006.

5 Fed.R.Civ.P. 4(m) requires plaintiff to serve defendants with summons and complaint within  
6 120 days of filing with the court. Plaintiff originally had until March 30, 2006 to serve the  
7 defendants after filing the amended complaint. After receiving notice that the office of the attorney  
8 general could not serve the defendants, plaintiff had until June 21, 2006, to serve summons and  
9 complaint. Plaintiff has not served the defendants, nor shown good cause for failure to do so. As  
10 such, plaintiff's motion to issue indictments and plaintiff's defaulted motion against defendant are  
11 improper.

12 Upon review of the magistrate judge's findings and recommendations (#19) and there being  
13 no objections filed,

14 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Magistrate Judge Foley's  
15 report and recommendations (#19) are AFFIRMED in their entirety.

16 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff's motion to  
17 issue indictments to the defendants (#15), be and the same hereby is, DENIED without prejudice.

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff's defaulted  
19 motion against defendants (#17) , be and the same hereby is, DENIED without prejudice.

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21 DATED this 6<sup>th</sup> day of March, 2007.

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24 **UNITED STATES DISTRICT JUDGE**  
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